

not necessary to bring all the co-obligors of the deceased before the court ; it is manifest, that these principles can derive no support from this rule which requires every one interested to be made parties, to the end that complete justice may be done among all.

But this general rule which requires each debtor, bound by a joint and several obligation to be brought before the court, although it may, to a certain extent, be well founded as to cases where a single creditor sues his living debtors only, or sues one of his joint debtors together with the representatives of another, who is dead, for the recovery of no more than his own particular debt ; yet it cannot be applied to a suit, the especial object of which is to have the whole estate of the deceased sold for the payment of his debts ; or so much of it as may be necessary for that purpose. A creditor's suit, or a bill which presents a case which requires to be treated as a creditor's suit, does not profess to be a demand of payment by a single creditor for himself alone ; but is a call upon the court to cause the assets, real and personal, of a deceased debtor to be accounted for and administered in due course of law for the benefit of all the creditors of the deceased. This is the nature of a creditor's suit according to the English law as well as the law of Maryland ; and it is expressly declared by our act of assembly, with an evident reference to a creditor's suit, that the real assets shall be administered by the heir, of full age, in the same order as the personal assets are directed to be applied in payment of debts by an executor ; and that all courts of law and equity shall observe the same rules. (c)

It was the course of this court for some time after the establishment of the republic, in a creditor's suit, merely to decree in general terms, that in so far as the deceased debtor's personal estate should be insufficient to pay his debts, his real estate should be sold for that purpose ; to appoint a trustee to make the sale, after he had given bond for the faithful discharge of his trust ; and to direct him to pay the debts due to the originally suing creditors, whose claims were established by the decree ; but, as to all other claims and every other matter, leaving to him the same extent of discretionary authority in the administration of the proceeds of the sale of the real assets as that allowed to an administrator of the personalty ; or in other words, giving him the power to dispose of and distribute the proceeds of the sale of the real estate in due